

PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0031

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428

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
CHMP-103

First named inventor: **Kenneth Pieroni, et al.**Group Art Unit: **2856**Application Number: **09/385,050**Examiner: **Charles Garber**Filed: **August 30, 1999**Title: **METHOD FOR DETECTING LEAKS IN A FLUID SYSTEM****FAX RECEIVED**

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

MAR 22 2002**PETITIONS OFFICE**

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee

☒ small entity - fee \$ 55 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Request For Continued Examination (Identify the type of reply):

☒ has been filed previously on Amendment After Final Rejection filed
☒ is enclosed herewith. October 25, 2001

B. The issue fee of \$ _____

☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 3]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/81 (10-00)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity of \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

March 21, 2002

Date

Telephone

Number: (949) 476-0600

Signature

Morland C. Fischer

Typed or printed name

2030 Main Street, Suite 1050

Address

Irvine, CA 92614Enclosures: ☒ Fee Payment Please charge to Deposit Account No. 08-1310☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unavoidable delay☐ _____

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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

3-22-2002
Date

Signature

Morland C. Fischer

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

3-22-2002
Date

Morland C. Fischer
Signature

Morland C. Fischer
Typed or printed name
Attorney for the Applicant

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

SEE ATTACHMENT

(Please attach additional sheets if additional space is necessary)

Serial No. 09/385,050

CHMP-103

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PETITIONS OFFICE

In reply to a Final Rejection dated June 25, 2001, the applicant filed an Amendment After Final Rejection (with a request for one month extension of time) bearing a Certificate of Mailing dated October 25, 2001. Because of the new U.S. Postal Service policy of segregating mail addressed to Washington D.C. zip codes, applicant's reply did not reach the PTO for 3 months (i.e. until January 24, 2002). Consequently, the Examiner's Advisory Action dated February 25, 2002 was issued only after the full six month statutory period had already run (on December 26, 2001).

However, in October, 2001, the applicant did not know and had no way to anticipate the magnitude of the anthrax scare and the resulting long time delay (of 3 months) in sending first class mail to Washington D.C. But for this long and unforeseen postal delay, the Examiner would have received and acted upon the applicant's Amendment After Final Rejection while still leaving sufficient time during the six month statutory period for the applicant to take additional action without having this application go abandoned. In other words, had applicant's Amendment After Final Rejection reached the PTO in a reasonable time, it is simply not likely that this application would have gone abandoned. Because the intervening mail delay was extraordinary and could not have been known or anticipated (in October, 2001), it is submitted that the reason for this application going abandoned was entirely unavoidable on the part of the applicant.

Best Available Copy

PTO/SB/04 (10-01)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
CHMP-103

First named inventor: Kenneth Pieroni, et al.

Application No.: 09/385,050

Art Unit: 2856

Filed: August 30, 1999

Examiner: Charles Garber

Title: METHOD FOR DETECTING LEAKS IN A FLUID SYSTEM

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PETITIONS OFFICE

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Box DAC
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Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 640 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

05/01/2002 AKELLEY 00000018 081310 09385050

02 FC:241 ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of Request For Continuing Examination Identify type of reply):☒ has been filed previously on Amendment After Final Rejection filed
☒ is enclosed herewith. October 25, 2001

B. The issue fee of \$ _____

☐ has been paid previously on _____
☐ is enclosed herewith.Adjustment date: 05/01/2002 AKELLEY
03/06/2002 DBYRNE 00000295 09385050

01 FC:301

-80.00 UP

[Page 1 of 2]

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Reain. Ref: 05/01/2002 AKELLEY 0013351200

DC:081310 Name/Number:09385050

FC: 704 : \$80.00 CR

PTO/SB/64 (10-01)

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

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March 21, 2002

Date



Signature

Telephone

Number: (949) 475-0800

Morland C. Fischer

Typed or printed name

2030 Main Street, Suite 1050

Address

Irvine, CA 92614

Enclosures: ☒ Fee Payment☒ Reply Please charge to Deposit Account No. 08-1310☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☐ Other: _____

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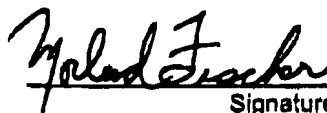
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3-22-2002

Date



Signature

Morland C. Fischer

Typed or printed name of person signing certificate